

STORY OF METHODS IN VOGUE AT PENITENTIARY

(Continued from first page)

neys as follows, to wit: that the said bones are sore, stiffened and permanently enlarged and that the kidneys of plaintiff are constantly sore and frequently cause plaintiff severe pain; that upon arising from a sitting or lying posture plaintiff suffers great inconvenience and pain. Plaintiff further avers that prior to said assault he was in perfect health and physical condition and that since said assault and now and by reason of said assault and of the said subsequent ill treatment plaintiff suffers from chronic diarrhoea and is now and always will be physically weak and is now permanently broken in health.

4. That the said assault and other wrongful acts complained of were not in accordance with and were contrary to and in violation of the rules and regulations of the government of the officers and employees of the said New Mexico Penitentiary approved by the Board of Commissioners of said penitentiary and in force at the time of said assault and subsequent ill treatment and subsequent other wrongful acts complained of or either of them were not necessary for the proper punishment of plaintiff or to secure submission or obedience on his part and said assault was not punishment for any offense committed by plaintiff and was not administered in accordance with legal regulations upon the subject; and that the said assault and other wrongful acts complained of were in violation of law.

5. That the said assault and other wrongful acts complained of as set out in paragraph 3 of plaintiff's first cause of action herein were committed and done under and by the express authority, direction, approval and knowledge of the said defendant McManus, as superintendent of said penitentiary and while said defendant McManus was acting as such superintendent, and the said defendant McManus wrongfully, unlawfully, wantonly and maliciously caused the said assault and other wrongful acts complained of to be committed as aforesaid.

6. That plaintiff's occupation is and always has been a stockman and rider of horses and plaintiff knows no other business, trade or profession; that by reason of the injuries suffered by plaintiff through the said assault and other wrongful acts complained of herein plaintiff is now and forever will be debarrd and prohibited and prevented from riding horses and thereby is and will be prevented from engaging in such means of livelihood.

7. That by reason of such injuries so inflicted upon the plaintiff by defendant McManus as aforesaid plaintiff has been damaged by defendant in the sum of \$17,500 as follows: \$2,500 in physical pain and mental suffering and \$15,000 in permanent physical injury and disability, no part of which has been paid.

SECOND CAUSE OF ACTION:

1. & 2. Plaintiff adopts as paragraph 1 and 2 of the second cause of action paragraph 1 and 2 as stated in plaintiff's first cause of action.

3. That defendant McManus, while so acting as superintendent of the said penitentiary as aforesaid wrongfully, unlawfully, wantonly, maliciously and without cause caused plaintiff to be confined from October, 1914, until April, 1915, in a cell with one Frank Collins, the said Frank Collins then and there being afflicted with the suffering from tuberculosis, an infectious disease, in a very aggravated form; that during all of said period plaintiff suffered constant

agony from the vile and offensive stench which arose from the person and sputum of the said Frank Collins; that during said period plaintiff many times asked defendant McManus and various of his employees to remove him from such cell but said defendant McManus wilfully, wantonly and maliciously failed so to do; that from such treatment and confinement as aforesaid plaintiff then suffered severe mental and physical torture; was then and thereby exposed to a malignant and incurable disease to wit, tuberculosis and thereby became inoculated with the bacilli of tuberculosis and plaintiff is advised by his physician that only by great care of his body may he recover from the effects of such exposure and inoculation.

4. That said confinement and exposure complained of were not in accordance with and were contrary to and in violation of the rules and regulations of the government of the officers and employees of the said New Mexico Penitentiary approved by the Board of Commissioners of said penitentiary and in force at the time of said confinement and exposure; that the said confinement and exposure or either of them were not necessary for the proper punishment of plaintiff or to secure submission or obedience on his part and said confinement and exposure was not punishment for any offense committed by plaintiff and was not administered in accordance with legal regulations upon the subject and that the said confinement and exposure were contrary to law.

5. That the said confinement and exposure complained of as set out in paragraph 3 of the second cause of action of this complaint were committed and done and by the express authority, direction, approval and knowledge of the said defendant McManus as superintendent of said penitentiary and while said defendant McManus was acting as such superintendent and the said defendant McManus unlawfully, wrongfully, wantonly and maliciously caused the said confinement and exposure so complained of to be committed as aforesaid.

6. That by reason of said injuries so inflicted upon plaintiff by defendant McManus, plaintiff has suffered actual damage in the sum of \$2,500 as follows: \$500 in physical pain and mental suffering and \$2,000 in permanent physical injury and disability, no part of which has been paid.

That by reason of said wanton and malicious assault, ill treatment, confinement, exposure and injuries complained of herein so inflicted upon plaintiff by defendant McManus as set out in paragraph 3 of plaintiff's first cause of action and paragraph 3 of plaintiff's second cause of action, plaintiff has suffered damages in the further sum of \$25,000 and is entitled to recover from defendant McManus punitive or exemplary damages in the said sum of \$25,000, no part of which has been paid.

1. For judgment against defendant McManus in the sum of \$17,500 actual damages under plaintiff's first cause of action.

2. For judgment against defendant McManus in the sum of \$2,500 actual damages under plaintiff's second cause of action.

3. For judgment against defendant McManus in the additional sum of \$25,000, punitive or exemplary damages.

4. For judgment for costs herein and such other relief as to the court may seem proper.

Warden McManus, when seen regarding the above complaint, denied certain of the allegations and said if the case came to trial he would give his side to it. "The whole matter set forth in the complaint was threshed out before the committee appointed by the last legislature, and they failed to find against the warden," declared Mr. McManus.—State Record.

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